

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

LEONEL HERNANDEZ,

Plaintiff,

v.

J. WELCH,

Defendant.

Case No.: 1:23-cv-01563-JLT-SKO

**ORDER GRANTING DEFENDANT'S EX
PARTE APPLICATION FOR AN
EXTENSION OF TIME WITHIN WHICH
TO FILE A RESPONSIVE PLEADING**

(Doc. 18)

Plaintiff Leonel Hernandez is proceeding pro se and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983.

I. INTRODUCTION

Following screening, this action proceeds on Plaintiff's Eighth Amendment threat to safety claim against Defendant Welch.

On June 7, 2024, Defendant filed a waiver of service. (Doc. 17.) A responsive pleading was due on or before July 8, 2024. (*Id.*) On July 3, 2024, Defendant filed an ex parte application for an extension of time within which to file a responsive pleading to Plaintiff's complaint. (Doc. 18.)

II. DISCUSSION

Defendant seeks a 28-day extension of time within which to file a responsive pleading to Plaintiff's complaint. (Doc. 18.) Defendant's motion is supported by the Declaration of Deputy

1 Attorney General Lisa E. Giarratano. (*Id.* at 5-7.) Defense counsel states she was assigned this
2 action on May 15, 2024. (*Id.* at 5, ¶ 2.) On June 19, 2024, counsel's office requested documents
3 from Plaintiff's current institution, but has not yet received these documents. (*Id.*, ¶ 3, ¶ 4.)
4 Counsel states she will be traveling outside of California between July 2 and July 6, 2024, and the
5 filing deadlines and activities in another action filed in this Court and in other federal district
6 courts compete with the deadline in this action. (*Id.*, ¶¶ 5, 6.) Counsel states she also reported for
7 jury duty in a California state court on May 30, 2024, June 5, 2024, and June 6, 2024. (*Id.*, ¶ 7.)
8 Lastly, counsel states her request is not made for the purpose of harassment or undue delay, and
9 she does not believe Plaintiff will be prejudiced by the request. (*Id.*, at 6, ¶ 9.)

10 **III. CONCLUSION AND ORDER**

11 For good cause shown, **IT IS HEREBY ORDERED** that Defendant's ex parte
12 application for an extension of time within which to file a responsive pleading (Doc. 18) is
13 **GRANTED**. Defendant **SHALL** file a responsive pleading **no later than August 5, 2024**.

14 IT IS SO ORDERED.

15
16 Dated: **July 8, 2024**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE